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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2009 JAN 23 A 10: 52

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
ARIZONA PUBLIC SERVICE COMPANY, IN  
CONFORMANCE WITH THE REQUIREMENT  
OF ARIZONA REVISED STATUTES §§ 40-360, *et*  
*seq.*, FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY  
AUTHORIZING THE TS-5 TO TS-9 500/230kV  
TRANSMISSION LINE PROJECT, WHICH  
ORIGINATES AT THE FUTURE TS-5  
SUBSTATION, LOCATED IN THE WEST HALF  
OF SECTION 29, TOWNSHIP 4 NORTH, RANGE  
4 WEST AND TERMINATES AT THE FUTURE  
TS-9 SUBSTATION, LOCATED IN SECTION 33,  
TOWNSHIP 6 NORTH, RANGE 1 EAST, IN  
MARICOPA COUNTY, ARIZONA.

DOCKET NO. L-00000D-08-0330-0138

CASE NO. 138

Arizona Corporation Commission

DOCKETED

JAN 23 2009

DOCKETED BY

PROCEDURAL ORDER

**BY THE COMMISSION:**

On July 1, 2008, Arizona Public Service Company ("APS" or "Company") filed an Application for a Certificate of Environmental Compatibility ("CEC") authorizing the TS-5 to TS-9 500/230kV Transmission Line Project (the "Project") in Maricopa County, Arizona ("Application").

The Arizona Power Plant and Transmission Line Siting Committee ("Committee") held public hearings on August 18 and 19, September 8 and 9, October 20, 21, 22, 27, 28, 29 and 30, November 17, 18, and 19, and December 1 and 2, 2008, in Glendale and Phoenix, Arizona. The public hearings were held for the purpose of receiving evidence and deliberating on the Application.

The following were granted intervention: the Arizona Corporation Commission's Staff ("Staff"); Arizona Land Department; 10,000 West, L.L.C.; City of Surprise; Elliott Homes, Inc.; Woodside Homes of Arizona; Anderson Land and Development, Inc.; Sun Haven Property Owners; Surprise Grand Vista JVI, LLC; Warrick 160, LLC and Lake Pleasant 5000, LLC; City of Peoria; Vistancia, LLC; Vistancia Village Homeowners; Diamond Ventures, Inc.; Quintero Community Association/Quintero Golf & Country Club; LP 107, LLC; DLGC, II LLC and Lake Pleasant Group,

1 LLP.

2 On August 8, 2008, the Town of Buckeye filed a Motion to Intervene.

3 On December 29, 2008, the Committee Chairman filed a Procedural Order and also the CEC  
4 issued by the Committee.

5 On January 13, 2009, the Commission's Staff, APS, Arizona State Land Department, 10,000  
6 West, L.L.C., DLGC II, LLC and Lake Pleasant Group, LLP, filed Requests for Review of Certificate  
7 of Environmental Compatibility ("Request").

8 On January 20, 2009, the City of Peoria, Vistancia, LLC; Vistancia Homeowners  
9 Associations; and Diamond Ventures, Inc. filed a Joint Request for Written Briefing and Oral  
10 Argument.

11 Pursuant to A.R.S. § 40-360.07, the Commission hereby sets the matter for oral argument and  
12 for the taking of briefs.

13 A.R.S. § 40-360.07.B provides that the Committee "shall transmit to the commission the  
14 complete record, including a certified transcript, and the review shall be conducted on the basis of the  
15 record." Accordingly, the Committee shall transmit the complete record to the Commission, if it has  
16 not already done so. This statutory provision clearly sets forth that the kind of review that the  
17 Commission is allowed to make in reaching its decision on this matter is limited to a review of the  
18 record created by the proceedings before the Committee. That record is closed, and additional  
19 testimony and evidence cannot be considered by the Commission when making its decision on the  
20 CEC. However, the Commission is authorized to hear oral argument and take briefs discussing the  
21 testimony and evidence already contained in the record. The Commission is aware that the record in  
22 this matter is sizable, and concise briefs that cite to the record (transcript page, exhibit number) will  
23 assist the Commission in its review and decision making.<sup>1</sup> The parties should bear in mind that  
24 A.R.S. § 40-360.07 provides that: "In arriving at its decision, the commission shall comply with the  
25 provisions of § 40-360.06 and shall balance, in the broad public interest, the need for an adequate,  
26 economical and reliable supply of electric power with the desire to minimize the effect thereof on the

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28 <sup>1</sup> A copy of the transcripts of the public hearings are available to review at the Commission's Phoenix office, 1200 West Washington St., Phoenix, Arizona.

1 environment and ecology of this state.” Briefs that address this standard of review and decision  
2 making while citing to specific evidence in the record will assist the Commission. Further, oral  
3 arguments that address the evidence and testimony in the record, and provide an opportunity for  
4 questions by the Commissioners, will assist the Commission in its decision making.

5 Accordingly, we will set oral arguments to commence on February 19, 2009 at 2:00 p.m. at  
6 the Commission’s Hearing Room 1, 1200 West Washington, Phoenix, Arizona and continuing to  
7 February 20, 2009 if necessary. These oral arguments will be made by parties to the proceeding only,  
8 and no public comment will be taken during the time for oral arguments. The Intervenor that filed  
9 Requests for Review and the Applicant will be allowed 20 minutes each to present their oral  
10 argument. All other parties will be allowed 10 minutes. The presiding officer may allow additional  
11 time, if necessary. The Commission will not vote at the February 19 and 20, 2009, oral arguments.  
12 A subsequent Public Comment/Special Open Meeting will be set for March 2, 2009, and additional  
13 notice of the Open Meeting will be provided by the Commission.

14 IT IS THEREFORE ORDERED that **the parties shall file in Docket Control, concise**  
15 **written briefs**, containing citations to the record, to assist the Commission in complying with the  
16 provisions of § 40-360.06 and balance in the broad public interest, the need for an adequate,  
17 economical and reliable supply of electric power with the desire to minimize the effect thereof on the  
18 environment and ecology of this state, **no later than February 12, 2009.**

19 IT IS FURTHER ORDERED that **oral arguments** by the parties to the proceeding shall be  
20 held beginning on **February 19, 2009, at 2:00 p.m. and continuing to February 20, 2009, if**  
21 **necessary**, at the Commission’s offices, 1200 West Washington, Hearing Room 1, Phoenix, Arizona.

22 IT IS FURTHER ORDERED that the Commission will hear **public comments** on the above-  
23 captioned matter on **March 2, 2009, at 10:00 a.m.** at the Commission’s offices, 1200 West  
24 Washington, Hearing Room 1, Phoenix, Arizona.

25 IT IS FURTHER ORDERED that Arizona Public Service Company shall provide public  
26 notice of the March 2, 2009 public comment session in a manner most likely to reach the largest  
27 number of members of the affected public, including publishing notice in a newspaper of general  
28 circulation in the area and posting the notice in appropriate locations, no later than February 20, 2009.

1 IT IS FURTHER ORDERED that the Committee shall, if it has not already, promptly  
2 transmit the complete record to the Commission.

3 DATED this 22<sup>nd</sup> day of January, 2009.

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5   
6 DWIGHT D. NODES  
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
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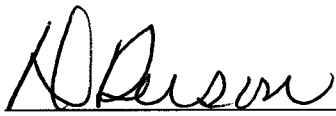
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